

PT 01-9

Tax Type: Property Tax

Issue: Parking Lot Exemption

STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
CHICAGO, ILLINOIS

RESURRECTION  
HEALTH  
CORPORATION,  
APPLICANT

v.

ILLINOIS DEPARTMENT  
OF REVENUE

Nos. 99-PT-0013  
(97-16-1114)  
00-PT-0026  
(98-16-1328)  
P.I.N: 12-01-400-007

**RECOMMENDATION FOR DISPOSITION**  
**PURSUANT TO APPLICANT'S MOTION FOR SUMMARY JUDGMENT**

**APPEARANCE:** Ms. Susan T. Crowley of Crane and Norcross on behalf of the Resurrection Health Care Corporation.

**SYNOPSIS:** These consolidated matters come to be considered pursuant to applicant's timely motion for summary judgment and raise the limited issue of whether any part of the parking garage located on real estate identified by Cook County Parcel Index Number 12-01-400-007<sup>1</sup> qualifies for exemption from 1997 and 1998 real estate taxes under Sections 15-65 and 15-125 of the Property Tax Code (35 ILCS 200/1-3, *et seq*) (hereinafter the "Code").

The underlying controversies arise as follows:

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1. The property itself shall be referred to as the "subject property;" the parking garage located on that property shall hereinafter be referred to as the "parking garage."

Applicant filed three separate Real Estate Tax Exemption Complaints with the Cook County Board of Review (hereinafter the “Board”). Each of these complaints pertained to a separate tax year<sup>2</sup> and sought to exempt various parts of the subject property from real estate taxes of that year under Sections 15-6 and 15-125 of the Code.

The Board reviewed each of the complaints and, in each case, recommended to the Illinois Department Of Revenue (hereinafter the “Department”) that partial exemptions be granted for each of the two tax years. The Department reviewed the Board’s recommendations and issued two separate determinations finding, in relevant part, that the entire parking garage was not in exempt use during each of the two tax years.<sup>3</sup>

Applicant filed timely appeals as to both determinations but later filed this motion for summary judgment. Following a careful review of the motion and its supporting documentation, I recommend that applicant’s motion for summary judgment be granted and that the Department’s determinations be modified to reflect the relief requested in applicant’s motion.

**FINDINGS OF FACT:**

1. The Department’s jurisdiction over these matters and its positions therein, namely that the entire parking garage was not in exempt use throughout the 1997 and 1998 tax years, are established by its determinations herein. Administrative Notice.

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2. Copies of the complaints contained within the Department’s file, of which I take administrative notice, indicate that: (1) applicant’s complaint for the 1997 assessment year was filed on June 12, 1998; and, (2) its complaint for the 1998 assessment year was filed on July 1, 1999

3. The Department issued its determination as to the 1997 assessment year on December 31, 1998 and its determination for the 1998 tax year on February 25, 2000.

2. The parking garage is part of a larger complex that contains applicant's main hospital facility, a medical office building and the parking garage. Applicant Motion Ex. No. 8.
3. The parking garage is a three-level improvement that services both the hospital facility and the medical building. Applicant specifically designated, and actually used, each of these levels for the following purposes throughout the 1997 and 1998 tax years:

AREA	USE
First or Ground Level	Parking for hospital complex employees, patients receiving treatment at the hospital and their visitors.
Second Level	Parking for hospital patients
Ramp to Third Level	Parking for hospital complex employees
Third Level	Roof parking for hospital complex employees

Applicant Motion Ex. Nos. 8, 9.

4. None of the areas within the parking garage were leased during the 1997 and 1998 tax years. Applicant Ex. No. 8.
5. Department's determination found that 33% of the combined square footage of the hospital complex and office building were used for exempt purposes during the 1997 assessment year. Administrative Notice.

6. Department's determination found that 36% of the combined square footage of the hospital complex and office building were used for exempt purposes during the 1998 assessment year. *Id.*
7. Applicant does not challenge either of the above findings in its motion for summary judgment. *Id.*

### **CONCLUSIONS OF LAW:**

Summary judgment is appropriate where there are no genuine issues of material fact and the moving party is entitled to judgment as a matter of law. 735 ILCS 5/2-1005(c). There are no contested facts in this case. Therefore, the issue for decision necessarily becomes one of law. Evangelical Alliance Mission v. Department of Revenue, 164 Ill. App.3d 431, 439 (2<sup>nd</sup> Dist. 1987). That issue is, precisely stated, whether or to what extent the parking garage was used for exempt purposes during the 1997 and 1998 tax years.

Parking areas are subject to exemption under Section 200/15-125 if they: (1) are owned by a school district, non-profit hospital, or religious or charitable institution which meets the qualifications for exemption set forth in the applicable section(s) of the Code; (2) are used as part of a use for which an exemption is provided in the Code and (3) are not leased or otherwise used with a view to profit. 35 ILCS 200/15-125;<sup>4</sup>

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4. Section 200/15-125 provides that:

Parking areas, not leased or used for profit, when used as part of a use for which an exemption is provided by this Code and owned by any school district, non-profit hospital, or religious or charitable institutions which meets the qualifications for exemption, are exempt [from real estate taxation].

35 ILCS 200/15-125.

Northwestern Memorial Foundation v. Johnson, 141 Ill. App.3d 309 (1<sup>st</sup> Dist. 1986).

The ownership requirement is not at issue herein because the instant denials were based strictly on lack of exempt use. Thus, the only source of controversy in this case is the extent to which applicant used the parking garage for exempt purposes. That inquiry is guided by Streeterville Corporation v. Department of Revenue, 186 Ill. 2d 534 (1999), wherein our Supreme Court held that parking areas can be exempted according to a statistical apportionment formula that defines the exemption in terms of the ratio of exempt to non-exempt uses.

Section 15-125 of the Code makes the exemption for parking areas depend on whether such areas serve facilities that are, in turn, used for specifically enumerated exempt purposes. Therefore, the formula alluded to in Streeterville cannot produce a percentage of exempt use for the parking area that exceeds the percentage of exempt use for the underlying facility.

Here, the Department determined, and applicant does not dispute, that 33% of the hospital facility and medical office building located on the subject property were used for hospital-related purposes during 1997. Nor does applicant dispute the Department's determination that 36% of these improvements were used for hospital-related purposes throughout 1998. Accordingly, pursuant to Streeterville, I conclude that: (1) 33% of the parking garage should be exempt from 1997 real estate taxes under Section 15-125 of the Code; and, (2) 36% of the parking garage should be exempt from 1997 real estate taxes under Section 15-125 of the Code. Therefore, the Department's determinations as to the parking garage should be modified to reflect such exemptions.

WHEREFORE, for all the aforementioned reasons, it is my recommendation that:

1. 33% of the parking garage located on real estate identified by Cook County Parcel Index Numbers 12-01-400-007 should be exempt from 1997 real estate taxes under Section 15-125 of the Property Tax Code; and,
2. 36% of the parking garage located on real estate identified by Cook County Parcel Index Numbers 12-01-400-007 should be exempt from 1998 real estate taxes under Section 15-125 of the Property Tax Code.

February 23, 2001

Date

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Alan I. Marcus  
Administrative Law Judge